

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 459

Introduced by Assembly Member Hill
(Coauthor: Assembly Member Nestande)

February 15, 2011

~~An act to amend Section 5100 of the Elections Code, relating to primary elections. An act to add Chapter 1.5 (commencing with Section 6920) to Part 2 of Division 6 of the Elections Code, relating to presidential elections.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 459, as amended, Hill. ~~Primary elections: party eligibility. Electoral college: interstate compact.~~

~~Existing law specifies conditions under which a party is qualified to participate in a primary election provides for statewide election of a slate of electors to vote in the electoral college for President and Vice President of the United States. Under existing law, each political party selects its slate of presidential electors in accordance with statutory procedures that differ by party.~~

~~This bill would make nonsubstantive changes to that provision ratify a specified interstate compact that requires the chief election official of each signatory state to appoint the slate of presidential electors that was nominated in association with the presidential ticket that received the largest national popular vote total. This compact would only become effective if states cumulatively possessing a majority of the total electoral votes have ratified the compact.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no.~~
~~State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 1.5 (commencing with Section 6920) is*
2 *added to Part 2 of Division 6 of the Elections Code, to read:*

3
4 *CHAPTER 1.5. VOTING COMPACT*
5

6 6920. *The Legislature of the State of California hereby ratifies*
7 *the Agreement Among the States to Elect the President by National*
8 *Popular Vote as set forth in Section 6921.*

9 6921. *The provisions of the Agreement Among the States to*
10 *Elect the President by National Popular Vote are as follows:*

11
12 *Article 1. Membership*
13

14 *Any state of the United States and the District of Columbia*
15 *may become a member of this agreement by enacting this*
16 *agreement.*

17
18 *Article 2. Right of the People in Member States to Vote for*
19 *President and Vice President*
20

21 *Each member state shall conduct a statewide popular election*
22 *for President and Vice President of the United States.*

23
24 *Article 3. Manner of Appointing Presidential Electors in*
25 *Member States*
26

27 *Prior to the time set by law for the meeting and voting by the*
28 *presidential electors, the chief election official of each member*
29 *state shall determine the number of votes for each presidential*
30 *slate in each state of the United States and in the District of*
31 *Columbia in which votes have been cast in a statewide popular*
32 *election and shall add such votes together to produce a “national*
33 *popular vote total” for each presidential slate.*

34 *The chief election official of each member state shall designate*
35 *the presidential slate with the largest national popular vote total*
36 *as the “national popular vote winner.”*

37 *The presidential elector certifying official of each member state*
38 *shall certify the appointment in that official’s own state of the*

1 *elector slate nominated in that state in association with the national*
2 *popular vote winner.*

3 *At least six days before the day fixed by law for the meeting and*
4 *voting by the presidential electors, each member state shall make*
5 *a final determination of the number of popular votes cast in the*
6 *state for each presidential slate and shall communicate an official*
7 *statement of such determination within 24 hours to the chief*
8 *election official of each other member state.*

9 *The chief election official of each member state shall treat as*
10 *conclusive an official statement containing the number of popular*
11 *votes in a state for each presidential slate made by the day*
12 *established by federal law for making a state's final determination*
13 *conclusive as to the counting of electoral votes by Congress.*

14 *In event of a tie for the national popular vote winner, the*
15 *presidential elector certifying official of each member state shall*
16 *certify the appointment of the elector slate nominated in association*
17 *with the presidential slate receiving the largest number of popular*
18 *votes within that state.*

19 *If, for any reason, the number of presidential electors nominated*
20 *in a member state in association with the national popular vote*
21 *winner is less than or greater than that state's number of electoral*
22 *votes, the presidential candidate on the presidential slate that has*
23 *been designated as the national popular vote winner shall have*
24 *the power to nominate the presidential electors for that state and*
25 *that state's presidential elector certifying official shall certify the*
26 *appointment of such nominees.*

27 *The chief election official of each member state shall immediately*
28 *release to the public all vote counts or statements of votes as they*
29 *are determined or obtained.*

30 *This article shall govern the appointment of presidential electors*
31 *in each member state in any year in which this agreement is, on*
32 *July 20, in effect in states cumulatively possessing a majority of*
33 *the electoral votes.*

34 35 *Article 4. Other Provisions*

36
37 *This agreement shall take effect when states cumulatively*
38 *possessing a majority of the electoral votes have enacted this*
39 *agreement in substantially the same form and the enactments by*
40 *such states have taken effect in each state.*

1 Any member state may withdraw from this agreement, except
2 that a withdrawal occurring six months or less before the end of
3 a President's term shall not become effective until a President or
4 Vice President shall have been qualified to serve the next term.

5 The chief executive of each member state shall promptly notify
6 the chief executive of all other states of when this agreement has
7 been enacted and has taken effect in that official's state, when the
8 state has withdrawn from this agreement, and when this agreement
9 takes effect generally.

10 This agreement shall terminate if the electoral college is
11 abolished.

12 If any provision of this agreement is held invalid, the remaining
13 provisions shall not be affected.

14 Article 5. Definitions

15
16 For purposes of this agreement, "chief executive" shall mean
17 the governor of a state of the United States or the Mayor of the
18 District of Columbia; "elector slate" shall mean a slate of
19 candidates who have been nominated in a state for the position of
20 presidential elector in association with a presidential slate; "chief
21 election official" shall mean the state official or body that is
22 authorized to certify the total number of popular votes for each
23 presidential slate; "presidential elector" shall mean an elector
24 for President and Vice President of the United States; "presidential
25 elector certifying official" shall mean the state official or body
26 that is authorized to certify the appointment of the state's
27 presidential electors; "presidential slate" shall mean a slate of
28 two persons, the first of whom has been nominated as a candidate
29 for President of the United States and the second of whom has
30 been nominated as a candidate for Vice President of the United
31 States, or any legal successors to such persons, regardless of
32 whether both names appear on the ballot presented to the voter
33 in a particular state; "state" shall mean a state of the United States
34 and the District of Columbia; and "statewide popular election"
35 shall mean a general election in which votes are cast for
36 presidential slates by individual voters and counted on a statewide
37 basis.
38

39 ~~SECTION 1. Section 5100 of the Elections Code is amended~~
40 ~~to read:~~

1 5100. ~~A party is qualified to participate in a primary election~~
2 ~~under any of the following conditions:~~

3 ~~(a) If at the last preceding gubernatorial election there was polled~~
4 ~~for any one of its candidates for any office voted on throughout~~
5 ~~the state, at least 2 percent of the entire vote of the state.~~

6 ~~(b) If on or before the 135th day before any primary election,~~
7 ~~it appears to the Secretary of State, as a result of examining and~~
8 ~~totaling the statement of voters and their political affiliations~~
9 ~~transmitted to him or her by the county elections officials, that~~
10 ~~voters equal in number to at least 1 percent of the entire vote of~~
11 ~~the state at the last preceding gubernatorial election have declared~~
12 ~~their intention to affiliate with that party.~~

13 ~~(c) If on or before the 135th day before any primary election,~~
14 ~~there is filed with the Secretary of State a petition signed by voters,~~
15 ~~equal in number to at least 10 percent of the entire vote of the state~~
16 ~~at the last preceding gubernatorial election, declaring that they~~
17 ~~represent a proposed party, the name of which shall be stated in~~
18 ~~the petition, which proposed party those voters desire to have~~
19 ~~participate in that primary election. This petition shall be circulated,~~
20 ~~signed, and verified, and the signatures of the voters on it shall be~~
21 ~~certified to and transmitted to the Secretary of State by the county~~
22 ~~elections officials substantially as provided for initiative petitions.~~
23 ~~Each page of the petition shall bear a caption in 18-point boldface~~
24 ~~type, which caption shall be the name of the proposed party~~
25 ~~followed by the words "Petition to participate in the primary~~
26 ~~election."~~